



CRM-M-16744-2016

-1-

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

261

CRM-M-16744-2016

Date of decision : 03.07.2025

M/s Uma Sales Corporation and others

.. Petitioners

Versus

State of Haryana and another

.. Respondents

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

Present:- Mr. Ajay Kumar Kansal, Advocate for the petitioners.

Mr. Aditya Pal Singla, AAG, Haryana.

Mr. R.S. Redhu, Advocate for respondent No.2.

H.S. Grewal, J.(Oral)

1. This petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.437 dated 03.12.2015, under Sections 406, 420, 34 & 120-B IPC, registered at Police Station Sadar Jind (Annexure P-1) along with all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioners submits that the present FIR is the counterblast to the proceedings initiated against the complainant at New Delhi with regard to dishonour of cheque. The petitioner-Firm and the complainant have various business dealings and the dispute is entirely civil in nature which has been given the colour of criminal consequences to put pressure upon the petitioners. The complainant-Firm had itself issued various cheques including cheque Nos.797982 to 797994, each amounting to Rs.3 lacs and 797995, amounting to Rs.3,20,073/- to make the payment of legally enforcement debt to the petitioners out of which three cheques i.e. 797993 to



CRM-M-16744-2016

-2-

797995 were again dishonoured by the bank due to 'stop payment' and the complainant-Firm had alleged that there is an excess payment of Rs.79,957/- to the petitioners and lodged the present FIR which is an abuse of process of law and is liable to be set aside. He also submits that during the pendency of the instant FIR, the entire payment has been made and only the issue with regard to interest i.e. Rs.79,957/- on account of interest is pending. Learned counsel also submits that the dispute is with regard to payment of interest on the delayed payment made by the complainant for which they had issued cheques which were later dishonoured while the factum of payment of interest @ 21% p.a. is duly mentioned in the sale contract, legal notices and bills. In support of his submission, he has relied upon the judgments of Hon'ble the Supreme Court in the cases of *M/s Indian Oil Corporation Vs. M/s NEPC India Limited and others, 2006 (3) RCR (Criminal) 740*, and *G. Sagar Suri Vs. State of UP, 2000(1) RCR (Criminal) 707* and the judgment of this Court in the case of *Arun Rathi and another versus Suresh Sharma, passed in CRM-M-17824-2013, decided on 18.02.2015*.

3. On the other hand, learned counsel for respondent No.2 has opposed the submissions of learned counsel for the petitioners and submits that the petitioners have defrauded with the complainant-Company and had neither returned the cheques nor made the excess payment of Rs.79,957/-.

4. I have heard learned counsel for the parties and have carefully gone through the material available on record.

5. The brief facts of the case are that a complaint had been made by Baljeet Singh (respondent No.2), who is Managing Director of a company, namely, M/s J.M. feeds Pvt. Ltd. on 03.11.2015, alleging that the company of

**CRM-M-16744-2016****-3-**

respondent No.2 is having the business of manufacturing of poultry and cattle feed and for that the company purchases maize and other raw material in cash or credit from other traders. Petitioner No.2 is running the foodgrain business by the name of M/s Uma Sales Corporation(petitioner No.1) and is doing the business of selling maize in wholesale. He was associated with petitioner No.3 in his business. Petitioners No.1 & 2 had deputed petitioner No.3 to different traders or companies for the purpose of selling their material. He further alleged that the petitioners had defrauded with him with an intention to gain undue benefit and cause undue loss to him. The complainant company had issued 13 cheques dated 20.07.2015 to 20.10.2015 i.e. 797982 to 797994, each amounting to Rs.3 lakhs and one cheque bearing No.797995 which was amounting to Rs.3,20,073/- in the name of the petitioners. In the meanwhile, the complainant-Company, in order to purchase maize etc., had transferred an amount of Rs.10 lakhs through RTGS on 09.06.2015 in the account of the petitioners, but the petitioners did not supply the material and had committed the breach of trust. It has also been alleged by the complainant that a sum of Rs.79,957/- had been paid by the complainant in excess, whereas the petitioners had neither returned five cheques as promised by them nor returned Rs.79,957/-. Therefore, the present FIR had been registered under Sections 406, 420, 34 & 120-B IPC.

6. Hon'ble the Supreme Court in the case of ***M/s Indian Oil Corporation's case (supra)***, while dealing with the issues of civil consequences which were given the colour of criminal proceedings, has held as under:-

“10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into



criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged.

7. *In G. Sagar Suri vs. State of UP (supra)*, Hon'ble the Supreme Court had observed as under:

" Jurisdiction under Section 482 of the Code has to be exercised with a great care. In exercise of its jurisdiction High Court is not to examine the matter superficially. It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice."

8. In the case in hand, there were business dealings between the parties prior to the transactions in question and it is difficult to accept the plea of respondent No.2 that the petitioners had a dishonest intention since inception to constitute offence of cheating punishable under Section 420 IPC. It has also been pointed that the instant FIR has been filed as a counterblast to the proceedings initiated against the company for non-payment of the outstanding

**CRM-M-16744-2016****-5-**

amount. However, during the course of these proceedings, the entire payment is stated to have been made and the only dispute remains between the parties is whether the amount of interest i.e. Rs. 79,957/- as part payment of Rs.10 lakhs is due towards the complainant. The dispute is entirely monetary in nature which arises out of business dealings/transactions and has been given the colour of criminal consequences to put pressure upon the petitioners to make payment of pending bills. In *G Sagar Suri's case (supra)*, Hon'ble the Apex Court has held that if a matter, which is essentially of civil nature has been given a cloak of criminal offence, jurisdiction under Section 482 can be exercised to prevent abuse of the process of any Court or otherwise to secure the ends of justice. That being so, I find merit in the contentions of the petitioners that the criminal proceedings initiated by the respondent do not make out a case for commission of offence punishable under Section 420 IPC and the same are nothing but a sheer abuse of law and misuse of process of Court, thus, liable to be quashed.

9. In view of the above, this petition is allowed and FIR No.437 dated 03.12.2015, under Sections 406, 420, 34 & 120-B IPC, registered at Police Station Sadar Jind and all subsequent proceedings arising therefrom are hereby quashed qua the petitioners.

(H.S.GREWAL)
JUDGE

03.07.2025
A.Kaundal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No